

PATENT
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AF
IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:
Kevin Calloway

Serial Number: 09/708,235

Examiner: Alvarez, Raquel

Filed: 11/7/2000

Art Unit: 3622

For: MULTIMEDIA MESSAGING METHOD AND SYSTEM

Mail Stop Appeal Brief-Patents
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450

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Respectfully submitted,

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Date: March 17, 2008

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RENEWED REPLY BRIEF UNDER 37 CFR 1.192

Dear Sir or Madam:

REMARKS

The Patent Applicant sent a Reply Brief on September 28, 2007. The Patent Office then issued a revised/supplemental Examiner's Answer. It is believed that such is inappropriate and not for consideration by the Board. To the extent that the Board may consider it, then this Renewal Reply Brief must be considered as well.

The Answer and rejections are based on simply finding capabilities in the art, then combining them with hindsight and "official notice." If one removes knowledge of the present invention from one's mind, it is respectfully submitted that the only way to achieve the invention as recited in the various claims is by impermissible hindsight.

The claimed invention teaches a method in which many (e.g., thousands or more) multimedia messages can be sent almost instantly to a number of recipients via e-mail, where each multimedia message is personalized to the individual. This is done by sending

each recipient a unique URL. The URL is uniquely coded so that when activated (when the user opens the email) it tells a computer to retrieve certain files from multiple sources. The computer then sends these files, multimedia, to the user's email to build that email in "real time." The multimedia message is thus built when the user opens the email.

Therefore, large multimedia email campaigns can be sent out in an instant, and even have content revised after sending.

Regarding the rejection of Claims 1-15, 18-33, 35-63 and 71-78 as being unpatentable over Hibbeler (6,067,348 hereinafter Hibbeler) in view of Official Notice:

In claim 1, the messages include multimedia, i.e., defined as at least one of text and graphics and at least one of audio and video. In the Examiner's Answer, it is argued that Hibbeler can store files as either text or audio, and therefore it would have been obvious to send text or audio via email (even though Hibbeler is an audio message system).

Hibbeler may teach storing voicemails as either text or audio but the message received by the recipient is always in an audio format (audio file format is the only file format voicemails receive). Even assuming for purposes of argument that Hibbeler were sending messages via e-mail rather than voicemail, it would not have been obvious to one of ordinary skill in the art to send multimedia messages from the teachings of Hibbeler. Hibbeler teaches storing the information alternatively as text or an audio file. Therefore, it would not have been obvious to send an audio and a text file via e-mail because there would be no motivation to do so. The messages would be the same and therefore redundant. The present invention defines sending a multimedia message as sending multimedia content in each message.

Claim 2 of the claimed invention emphasizes that the message is a “multimedia stream.”

Claim 3 of the claimed invention emphasizes that a multimedia message is delivered to the recipient. Nothing in Hibbeler, whether text or audio is stored, teaches the delivery of a multimedia message. Even if it were possible or capable for Hibbeler to send a text and an audio message (assumed for purposes of argument), it would be redundant and pointless. Moreover, mere capability is not sufficient to sustain a rejection.

For claim 10, the Answer contains no basis as to why claim 10 would have been obvious. Claim 10 emphasizes that the user varying message content is built from the user's unique data, not just a pass through of that unique data.

For claims 13-15, the Answer also provides no clear basis. These claims relate to the mark up coding that allows the multimedia to play automatically when the recipient clicks on the message.

Regarding the Rejection of Claims 16-17, 34 and 75-78:

Claim 16 recites the unique URL. It is individualized. It is not just a link in an email to pull a document. The unique URL allows the email message to be built in real time. Smith simply opens a document by clicking on a linking URL. Smith is not building a multimedia email in real time.

The Answer contains no basis as to why claim 17 would have been obvious. Claim 17 states, “a system as recited in claim 16, wherein the activation of the unique URL link comprises execution of a first routine to collect individualized data and a second routine to display the individualized multimedia message content.” The

multimedia message is built when the recipient opens the message to activate the unique URL.

Claim 51 of the claimed invention discusses that the individualized messages may be modified after sending such as with offers, rebates or other discounts. When the individualized message is viewed after any modification it will reflect the modifications. This means that after the individualized message has already been sent it can still be modified. The Answer states that it is old and well known in the computer related arts to offer an individualized message or discount to a customer in order to increase the likelihood that the customer will use the offer. The Answer does not provide any basis as to why it would have been obvious to provide individualized messages where the content of the messages can be modified after the messages have already been sent.

Further regarding the rejection of claims 16-17, 34-35 and 75-78 as being unpatentable over Hibbeler in view of Smith et al. (6,725,381 hereinafter Smith):

Smith's unique URL is much different from the one that is provided in the claimed invention. The URL in Smith simply leads to a document. The Smith URL is directly linked to that document. In the claimed invention, the URL has a code that when activated tells the computer to retrieve certain files constituting multimedia from multiple different sources. The computer then sends the multimedia to the user where it can be viewed as the e-mail message. The message is thus built from several different sources when the URL is activated typically by opening the e-mail. This is not shown by Smith and would not have been obvious to one of ordinary skill in the art.

Regarding any other rejections, the comments and diagrams in the Appeal Brief and the comments in the original Reply Brief fully address the rejections.

Respectfully submitted,

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Encls.

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